

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

James M. Broten, #11073-052,)	Civil Action No. 8:04-1413-RBH-BHH
Plaintiff,)	
vs.)	<u>REPORT OF MAGISTRATE JUDGE</u>
Charleston County Detention Center, et al.,)	
Defendants.)	

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On May 25, 2005, defendant Unknown CCDC Nurse Better filed a motion for summary judgment. On May 27, 2005, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), an order was mailed to the plaintiff's last known address (Albany County Correctional Facility, 840 Albany Shaker Road, Albany, NY 12211) advising him of the summary judgment procedure and the possible consequences if he failed to respond adequately. The envelope containing this order was returned to the court marked "Return to Sender, No Forwarding Order on File." The *Roseboro* order was remailed on June 14, 2005, to the same address but with the plaintiff's prisoner number clearly marked on the envelope. The envelope was again returned to the court marked "Return to Sender, No Forwarding Order on File" and "Not Here." Clearly, the plaintiff is no longer incarcerated at the Albany County Correctional Facility.

The record reveals that the plaintiff was advised by order dated May 27, 2004, of his responsibility to notify the court *in writing* if his address changed.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution.

s/Bruce H. Hendricks
United States Magistrate Judge

July 5, 2005

Greenville, South Carolina